

REMARKS

Claims 11-13 and 20-38 are pending in the present application.

At the outset, Applicants wish to thank Examiner Underdahl and Examiner Lankford for the helpful and courteous discussion with their undersigned representative on November 15, 2006. During this discussion various arguments and amendments to the address the outstanding rejections were discussed. The content of this discussion is reflected in the following comments. Reconsideration of the outstanding rejections is requested.

The rejection of Claims 12 and 13 under 35 U.S.C. §112, second paragraph, is obviated in part by amendment and traversed in part.

Applicants submit that the terms hypertension and high blood pressure in Claim 11 are well-known in the art to be generic terms that embrace the both a systolic and a diastolic component, while Claims 12 and 13 merely specify the individual species. As such, Claims 12 and 13 do not limit Claim 11 to independent treatment they merely require that at least the systolic or diastolic blood pressure, respectively, be reduced and, therefore, these claims are definite. To underscore the foregoing, Claim 11 has been amended to add the phrase “wherein systolic blood pressure, diastolic blood pressure, or both is reduced.”

Applicants request withdrawal of this ground of rejection.

The rejection of Claims 11-19 under 35 U.S.C. §103(a) over Abraham (with support from Clarke et al and Macheix et al) in view of Hsu as supported by McGraw-Hill and Yokozawa et al is respectfully traversed.

In making this rejection, the Examiner points to composition code (D) appearing in Table 1 of Abraham as containing ferulic acid, caffeic acid, and chlorogenic acid. Further,

the Examiner points to Table 2 of Abraham and asserts that the supplement identified as composition code (D) is added to coffee, composition code (C). Be that as it may, the Examiner acknowledges that Abraham fail to disclose or suggest the administration of such a composition for the treatment or prevention of hypertension (as defined by McGraw-Hill).

In an attempt to compensate for this deficiency, the Examiner asserts that Hsu discloses treating hypertension using the herb Crataegus, which contains the active ingredients chlorogenic acid and caffeic acid. The Examiner further references Yokozawa et al as disclosing that caffeic acid and its derivatives are effective for treating hypertension.

Applicants submit that, *at best*, Hsu provides motivation for administering a composition containing chlorogenic acid and caffeic acid to treat hypertension. However, there is no such motivation to add ferulic acid to this composition and to expect the same result. In this regard, it should be noted that the Examiner has not offered any evidence as to the effect of ferulic acid on hypertension. Further, Abraham only relates to the administration of the compositions appearing in Table 1 to determine their anti-genotoxic effects. At no point does the art of record disclose the co-administration of ferulic acid *with* caffeic acid and/or chlorogenic acid (the compound or the genus) to prevent or treat hypertension or high blood pressure.

This deficiency in the art of record is important and evidence for the same is provided in the Examples of the present application. Specifically, Applicants wish to direct the Examiner's attention to the experimental data set forth in Table 1 (page 15) of the present application, which shows the clear advantages of co-administration of ferulic acid with caffeic acid and/or chlorogenic acid. By comparing Test Plots 4-6 to Test Plots 1-3 and looking at the 1 hour point it is clear that the co-administration of ferulic acid with caffeic acid and/or chlorogenic acid is clearly greater than the additive values of the individual administration of these compounds, thus providing evidence of synergism.

The Examiner is reminded that as set forth in MPEP §716.02(a) "greater than expected results are evidence of nonobviousness." Evidence of a greater than expected result may also be shown by demonstrating an effect which is greater than the sum of each of the effects taken separately (i.e., demonstrating "synergism"). *Merck & Co. Inc. v. Biocraft Laboratories Inc.*, 874 F.2d 804, 10 USPQ2d 1843 (Fed. Cir.), *cert. denied*, 493 U.S. 975 (1989).

In view of the foregoing, Applicants request withdrawal of this ground of rejection.

The rejections of (a) Claims 3-5 and 19, and (b) Claims 14-16, each under 35 U.S.C. §112, second paragraph, are obviated by amendment. Claims 3-5, 14-16, and 19 have been canceled. Therefore, these grounds of rejection are now moot and should be withdrawn.

The rejection of Claims 1-6 and 8 under 35 U.S.C. §102(b) over Abraham et al with support from Clarke et al and Macheix et al is obviated by amendment. Claims 1-6 and 8 have been canceled. Therefore, this ground of rejection is now moot and should be withdrawn.

The obviousness type-double patenting rejection of Claims 1-6, 8, and 11-19 over Claims 1-11 of U.S. Patent No. 6,310,100 in view of Abraham as supported by Hsu and Yokozawa et al is respectfully traversed.

Applicants submit that this ground of rejection is without merit as the claims of U.S. Patent No. 6,310,100 fail to include ferulic acid in addition to caffeic acid and/or chlorogenic acid, which is required in the claimed invention. Abraham, Hsu, and Yokozawa et al are summarized above, as are their combined disclosures.

Further, Applicants submit that the data set forth in Table 1 clearly show the substantial advantages flowing from the claimed combination as compared to compositions in which only ferulic acid is present (i.e., U.S. Patent No. 6,310,100). As such, Applicants submit that the claims of the present application are patentably distinct from the claims of U.S. Patent No. 6,310,100.

Accordingly, withdrawal of this ground of rejection is requested.

The provisional obviousness-type double patenting rejection of Claims 1-6, 8, and 11-19 over Claims 1-26 of U.S. 11/209,672 is respectfully traversed.

The Office's records (see the Patent Information Retrieval System) for U.S. Application No. 11/209,672 show that this application was officially abandoned on October 20, 2006. Therefore, this rejection should be withdrawn.

Finally, Applicants request that the provisional obviousness-type double patenting rejection of Claims 1-6, 8, and 11-19 over Claims 2-6, 8, 11-16, and 20-29 of U.S. 10/826,289 and over Claims 1-19 of U.S. 09/922,694 be held in abeyance until allowable subject matter is identified in each application. If necessary, a terminal disclaimer will be filed at that time. Until such a time, Applicants make no statement with respect to the propriety of this ground of rejection.

Applicants submit that the present application is now in condition for allowance.

Early notification of such action is earnestly solicited.

Respectfully submitted,

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